

Michigan Department of Civil Service

# REGULATION

|                                                                                                                                 |                                                                                                                                     |                                             |                                                                 |
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| <b>Appointing Authority<br/>Letter Reference:</b><br><br>CS-6940                                                                | <b>Effective Date:</b><br><br>March 18, 2001                                                                                        | <b>Index Reference:</b><br><br>Recall Lists | <b>Regulation Number:</b><br><br><b>3.09</b>                    |
| <b>Issuing Bureau:</b><br><br>Human Resource<br>Services                                                                        | <b>Rule Reference:</b><br>Rules 2-5 (Employment Preference)<br>3-2 (Applicant Pools and Recall Lists)<br>3-5 (Probation and Status) |                                             | <b>Replaces:</b><br><br>Reg. 3.12<br>(CS-6860, August 26, 1997) |
| <b>Subject:</b><br><b>ESTABLISHMENT, MAINTENANCE, AND DURATION OF RECALL LISTS FOR<br/>NONEXCLUSIVELY REPRESENTED EMPLOYEES</b> |                                                                                                                                     |                                             |                                                                 |

## TABLE OF CONTENTS

|                                                        |          |
|--------------------------------------------------------|----------|
| <b>1. PURPOSE.....</b>                                 | <b>1</b> |
| <b>2. CIVIL SERVICE COMMISSION RULE REFERENCE.....</b> | <b>2</b> |
| <b>3. DEFINITIONS .....</b>                            | <b>4</b> |
| A. Civil Service Commission Rule Definitions.....      | 4        |
| B. Additional Definition Used in This Regulation.....  | 6        |
| <b>4. INFORMATION .....</b>                            | <b>6</b> |
| <b>5. STANDARDS .....</b>                              | <b>7</b> |
| A. Employee Eligibility for Recall .....               | 7        |
| B. Employee Rights for Placement on Recall Lists ..... | 7        |
| C. Removal of Names from Recall Lists .....            | 10       |
| D. Duration of Recall List Records .....               | 11       |

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## 1. PURPOSE

This regulation provides information and standards relative to the placement of names onto recall lists, removal of names from recall lists, and duration of recall lists for nonexclusively represented employees (NEREs).

## 2. CIVIL SERVICE COMMISSION RULE REFERENCE

### *Rule 2-5 Employment Preference*

#### *2-5.1 Application and Protection*

- (a) **Application.** *Unless otherwise provided in an approved departmental layoff plan, an employee can apply employment preference only within the employee's current principal department or autonomous entity. However, an employee cannot apply preference against a position or classification that is protected from the application of employment preference.*
- (b) **Limited-term appointments.** *An employee is not eligible to exercise employment preference or to be placed on a recall list at the end of a limited-term appointment, unless the employee meets one of the following criteria:*
- (1) *An employee with status gained from an indefinite appointment who accepts or receives a lateral job change to a limited-term appointment may exercise employment preference at the end of the limited-term appointment. Employment preference begins at the last classification level at which the employee achieved status in an indefinite appointment before accepting the limited-term appointment. Employment preference may be exercised only within the principal department or autonomous agency that appointed the employee to the limited-term appointment.*
  - (2) *A person who is recalled on a limited-term basis is not eligible to exercise employment preference at the end of the limited-term appointment but shall be returned to all recall lists for which the employee is eligible.*
- (c) **Protected positions.** *An employee occupying a protected position cannot be displaced from the employee's current position by another employee exercising employment preference. An employee in a protected position does not lose the right to apply employment preference to an unprotected position if the employee's protected position is abolished. The following positions are protected positions:*
- (1) *All positions in senior executive service (SES) classifications, including positions in SES-eligible classifications.*

- (2) All positions in ECP Group 4 classifications.*
- (3) All positions in senior executive management assistant service (SEMAS) classifications.*
- (4) Any other position designated as protected in any other civil service rule or regulation.*

\* \* \*

## ***Rule 3-2 Applicant Pools and Recall Lists***

\* \* \*

### ***3-2.3 Recall Lists***

*An employee is eligible to be placed on a recall list only if the employee (1) gained status from an indefinite appointment and (2) is laid off, demoted, or otherwise displaced for reasons of administrative efficiency. Recall lists are not created or maintained for classifications that are protected from the application of employment preference in rule 2-5 or applicable regulations.*

### ***3-2.4 Removal from Recall Lists***

*The department of civil service may remove a person from a recall list for any of the following reasons:*

- (a) Appointment.*
- (b) Failure to respond to an inquiry regarding possible employment.*
- (c) An indication of lack of interest in an employment opportunity.*
- (d) Failure to accept employment.*
- (e) Separation or retirement from state service.*
- (f) Evidence that the person is unable to perform satisfactorily, with or without reasonable accommodations, the essential duties of the job.*
- (g) Evidence of conduct that indicates that the person is unfit or unsuitable for appointment.*
- (h) Conduct that violates rule 3-1.5 [Integrity of Process].*
- (i) Expiration of recall rights.*

### ***Rule 3-5 Probation and Status***

\* \* \*

#### ***3-5.6 Status***

*An employee who has been appraised, qualified, properly appointed on an indefinite or limited-term basis, and who has satisfactorily completed the probationary period has status while the employee remains continuously employed in the classified service. An employee who has attained status and later accepts an appointment to a position at a different classification level continues to have status at the former classification level while the employee remains continuously employed in the classified service. An employee whose appointment is revoked under rule 3-6 [Revocation of Appointment] cannot earn status at that classification and classification level or credit for qualification purposes.*

## **3. DEFINITIONS**

### **A. Civil Service Commission Rule Definitions**

- 1. *Applicant pool*** means a group of applicants whom the department of civil service has determined to be qualified.
- 2. *Appointing authority*** means each of the following:
  - (a)** *A single executive heading a principal department.*
  - (b)** *A chief executive officer of a principal department headed by a board or commission.*
  - (c)** *A person designated by either of the preceding as responsible for administering the personnel functions of the department, board, commission, or agency of convenience.*
- 3. *Candidate pool*** means qualified persons considered for a position.
- 4. *Career appointment*** means an appointment to a classified position that is expected to last the equivalent of 90 full-time workdays or more. A career appointment may be an indefinite appointment or a limited-term appointment.

5. **Classification** means a group of positions whose assigned duties and responsibilities are sufficiently alike to warrant assigning the same classification title and requiring the same qualifications.
6. **Classification level** means the placement of a classification within a series based on the duties and responsibilities of the position.
7. **Employee** means a classified employee of the state of Michigan over which the civil service commission has jurisdiction under the constitution.
8. **Employee status code** means the status assigned to an employee for the purposes of determining pay and benefits.
9. **Frozen** means a classification or a position to which an appointing authority is prohibited from making an appointment without prior review and approval of the department of civil service.
10. **Grade** means classification level.
11. **Indefinite appointment** means a career appointment with no fixed ending date at the time of appointment.
12. **Job title** is a HRMN term that represents class series.
13. **Limited-recognition organization** means a labor organization recognized by the state personnel director to represent employees in nonexclusively represented positions.
14. **Limited-term appointment** means a career appointment that has a fixed ending date at the time of appointment.
15. **Noncareer appointment** means an appointment to a classified position that is expected to last less than the equivalent of 90 full-time workdays in a calendar year.
16. **Nonexclusively represented position** means (1) an excluded position or (2) an eligible position in a unit that has not elected an exclusive representative.

**17. *Position*** means a classified job identified by its respective duties and responsibilities.

**18. *Position title*** is a HRMN term that represents classification.

**19. *Recall list*** means a list of persons who have been laid off, demoted, or otherwise displaced for reasons of administrative efficiency, including, for example, lack of work, lack of adequate funding, change in mission, or reorganization of the work force.

**20. *Total continuous service*** means the number of paid hours of creditable time compiled during a current employment period. Total continuous service includes creditable time but does not include noncreditable time.

#### **B. Additional Definition Used in This Regulation**

**1. *Reduction in force (RIF)*** means an action taken by an appointing authority to lay off, demote, or otherwise displace an employee for reasons of administrative efficiency, including, for example, lack of work, lack of adequate funding, change in mission, or reorganization of the work force.

### **4. INFORMATION**

- A.** Recall lists are composed of the names of employees who have been laid off, demoted, or otherwise displaced from the state classified service. The department or autonomous entity is responsible for creating and maintaining recall records for their employees affected by the reduction in force (RIF). In the event of an appeal, the department or autonomous entity that implemented the RIF is responsible for defending its actions under this regulation.
- B.** It is the responsibility of the employee to notify the department or autonomous entity that implemented the RIF of name or address changes. An employee may update this information using the HRMN website or by contacting their Human Resources Office.
- C.** An employee may update recall records, including changes to location or employment status availability, by submitting written notification to the department or autonomous entity from which the RIF occurred.

## **5. STANDARDS**

### **A. Employee Eligibility for Recall**

1. An employee who has gained status from an indefinite appointment to a permanent classified position who is laid off, demoted, or otherwise displaced for reasons of administrative efficiency due to RIF is eligible to be placed on the recall list for the class series at and below the classification level at which the employee was serving at the time of the RIF. In addition, an employee is eligible to be placed on the recall list for the class series at and below the classification level in which the employee attained status.
2. Employees have departmental recall rights to the department or autonomous entity that implemented the RIF. Employees are ranked by total continuous service hours with selection limited to the most senior employee.
3. Employees have statewide recall rights to other departments or autonomous entities. Employees are not ranked; selection may be made from among any available names.

### **B. Employee Rights for Placement on Recall Lists**

1. Names are placed on the recall list for the class series at the same and lower classification levels in which the employee served at the time of the RIF.
2. Names are placed on additional recall lists for the class series at the same and lower classification levels in a class series in which the employee has attained status.
3. Determinations for placement on recall lists are based on the following criteria:
  - a. If displaced to a position in a different classification at the same classification level, pay rate, and county, placement is limited to the class series of layoff for the county of layoff only. (See Attachment A, Example 4.) The employee has recall rights only to the classification level at which the employee served at the time of the RIF.
  - b. If displaced to a position in the same classification and classification level, different county, placement is limited to all class series at the

classification level for which the employee has attained status, county of layoff only. (See Attachment A, Example 2.)

- c. If displaced to a position at a lower classification level, placement on additional recall lists is dependent upon the location and pay rate of the position to which bumped. Placement is limited to the class series at or below the level of the classification from which displaced and at or above the classification level of the position to which bumped. (See Attachment A, Examples 1 and 3.)
4. When class clusters are included in an approved departmental layoff plan, an employee is eligible for placement on the recall list for the class series identified within the class clusters at or below the employee's current classification level. Departmental class clusters can only be used within the department or autonomous entity that implemented the RIF.
5. Employees are placed on the recall list for the county and employee status at the time of the RIF. If laid off, placement on recall lists for nonexclusively represented classifications includes all counties of interest. Exceptions occur under the following circumstances:
  - a. If the employee does not have status gained from an indefinite appointment in the layoff classification, placement is on the recall list for the class series at the same and lower classification levels and county in which the employee last attained status, provided the classification is not covered by a collective bargaining agreement.
  - b. Employees having status gained from an indefinite appointment who lateral job change or who are promoted on a limited-term basis are eligible at the end of the limited-term appointment for placement on the recall list for the class series at the same and lower classification levels and county of the indefinite appointment, provided the classification is not covered by a collective bargaining agreement.
  - c. Recall lists are not maintained for:
    - (1) Equitable Classification Plan Group 4 classifications, including the Senior Executive Service (SES).
    - (2) The Senior Executive Management Assistant Service (SEMAS) classifications.



- (3) State Transitional Manager classifications.
  - (4) State Transitional Professional classifications.
  - (5) Departmental Trainee classifications.
  - (6) State Transitional Business and Administrative Technician classifications.
  - (7) Noncareer (e.g., Student Assistant) classifications.
  - (8) Frozen classifications.
  - (9) Any other classification designated as protected in any other civil service rule or regulation.
- d. Employees in pay protection status from positions in Group 4, the SES, or the SEMAS have recall rights only to the department or autonomous entity that implemented the RIF.
- e. Employees displaced from the State Transitional Manager, State Transitional Professional, or State Transitional Business and Administrative Technician classifications are placed on the recall list for the appropriate manager, professional, or technician class series at the same or lower classification levels in accordance with regulation 2.01 [Implementing a Reduction in Force for Nonexclusively Represented Employees].
- f. Employees displaced from a Departmental Trainee classification are placed on the recall list for the appropriate professional class series at the same or lower classification levels as follows:
- (1) Employees who have satisfactorily completed the equivalent of 2 years of full-time service have recall rights at the experienced classification level and below for the classification series of layoff.
  - (2) Employees who have satisfactorily completed at least the equivalent of 1 year of full-time service, but less than the equivalent of 2 years of full-time service, have recall rights at the intermediate classification level and below for the classification series of layoff.

- [illegible]

### C. Removal of Names from Recall Lists

Employees' names are removed from recall lists for any of the reasons specified in rule 3-2.4 and in accordance with the following guidelines: (See Attachment B for examples.)

1. The employee's name is removed from all recall lists because of lack of interest in, or return to, full-time indefinite employment in the county of the original RIF, in the same classification and classification level of layoff, or in any classification having a higher classification level and pay rate.
2. The employee's name is removed from all recall lists if the employee was displaced from a position having a less than full-time work schedule and is returned to employment in the same or full-time work schedule, in the same classification and classification level and county of the original RIF.

3. The employee's name is removed from all recall lists because of lack of interest in, or return to full-time indefinite employment in a different classification at the same pay rate, classification level, and county of the original RIF action, EXCEPT FOR the recall list for the class series, at the same classification level and county of the original RIF.
4. The employee's name is removed from all recall lists because of lack of interest in, or return to full-time indefinite employment in a classification at the same pay rate and classification level, different county, as the original RIF, EXCEPT FOR the recall list for the class series at the same classification level and county of the original RIF.
5. If the employee returns to employment or indicates lack of interest in a classification at a lower classification level than the classification of layoff, in the county of layoff, the employee's name is removed from all recall lists for all class series at the same and lower classification levels. If the employment opportunity was in a different county than the county of layoff, the employee remains eligible for the recall list for classifications at the classification level for the county of layoff only, and removed from all lower classification levels.
6. The employee's name is removed from all recall lists for classifications having a maximum pay rate equal to or below the maximum pay rate of the classification to which any return to full-time, indefinite employment occurs, except as otherwise stipulated in these standards.
7. The employee's name is removed from all recall lists because of departure on a waived rights leave of absence.
8. The employee's name is removed from recall lists because of expiration of recall list records.

#### **D. Duration of Recall List Records**

1. Names are placed on recall lists for one year from the date of layoff or displacement.
2. At the end of the one-year period, the expiration date for recall lists is extended for an additional one-year period, upon written request from the employee. At the end of the one-year extension, the expiration date for recall lists is extended for another one-year period upon written request from the employee. Requests for extensions must be received by the department

from which the RIF occurred before the expiration date of the recall list. Requests should be submitted during the month before expiration. Requests received after the lists have expired are not honored.

3. Extensions beyond 3 years from the RIF action are not granted.

See Attachments A and B

### **CONTACT**

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or MDCS-BHRS@state.mi.us.

**NOTE:** Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.

## **ATTACHMENT A**

### **PLACEMENT OF NAMES ON RECALL LISTS**

#### **Example 1**

Current Position: Financial Manager 15 (FINANMGR), County 33  
Bumped to: Financial Manager 13, County 33

The employee is eligible to be placed on recall lists for the class series in which the employee attained status. The employee has recall rights to 14 and 15 level classifications in all counties in which interested in working.

#### **Example 2**

Current Position: Financial Manager 15 (FINANMGR), County 33  
Bumped to: Financial Manager 15, County 82

The employee is eligible to be placed on recall lists for the class series in which the employee attained status. The employee has recall rights to 15 level classifications in County 33 only.

#### **Example 3**

Current Position: Financial Manager 15 (FINANMGR), County 33  
Bumped to: Financial Manager 13, County 82

The employee is eligible to be placed on recall lists for the class series in which the employee attained status. The employee has recall rights to 13 level classifications in County 33 only and to 14 and 15 level classifications for all counties of interest.

#### **Example 4**

Current Position: Financial Manager 15 (FINANMGR), County 33  
Bumped to: Departmental Manager 15 (DEPTLMGR), County 33  
(If the employee has attained status in the Departmental Manager 15 classification level or above.)

The employee is eligible to be placed on the recall list for the Financial Manager class series. The employee is already at the classification level, pay rate, and county of layoff. The employee has recall rights to the Financial Manager 15 level classification in County 33 only. The employee has recall rights to the Financial Manager 15 level classification in County 33 only.

## **ATTACHMENT B**

### **REMOVAL OF NAMES FROM RECALL LISTS BECAUSE OF RETURN TO OR LACK OF INTEREST IN EMPLOYMENT**

#### **Example 1**

Layoff Classification: Departmental Analyst P11 (DEPTLALT), County 33  
Returned to: Buyer P11 (BUYER), County 82

The employee is eligible to remain on recall lists for all previously determined class series. The employee has recall rights to the 9, 10, and P11 level Departmental Analyst classification and any other previously determined P11 level classifications in County 33 only.

#### **Example 2**

Layoff Classification: Financial Manager 15 (FINANMGR), County 33  
Returned to: Financial Manager 13, County 33

The employee is eligible to remain on recall lists for all previously determined class series. The employee has recall rights to 14 and 15 level classifications in all counties of interest.

#### **Example 3**

Layoff Classification: Departmental Analyst P11 (DEPTLALT), County 33  
Returned to: (A) Accountant 12 (ACCOUNTNT), County 33, or (B) Accountant 12,  
County 41

- (A) The employee has been appointed to a higher classification level, pay rate, in the same county. The employee's name is removed from all recall lists.
- (B) The employee has been appointed to a higher classification level and pay rate, but to a different county. The employee is eligible to remain on the recall list for all previously determined class series. The employee has recall rights to 9, 10, and P11 Departmental Analyst level classifications and any other previously determined P11 level classification in County 33 only.

**Example 4 — Two Reductions in Force (RIF)**RIF #1 4/5/97

Layoff Classification: Departmental Specialist 15 (DEPTLSPL), County 33, Maximum Pay  
= \$32.05/hr.

RIF #2 11/12/98

Layoff Classification: Financial Specialist 14 (FINANCSPL), County 23, Maximum Pay  
= \$28.79/hr.

Returned 3/13/00 to: Departmental Manager 15 (DEPTLMGR), County 23, Maximum Pay  
= \$32.05/hr.

The employee's name is removed from the recall list for the class series involved in the second RIF. The employee has been returned to a higher classification level and pay rate, in the same county as the second RIF. The employee remains on all previously determined class series in order to assist in return to the county of layoff of the first RIF. The employee has recall rights to 15 level classifications in county 33 only.